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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,364	05/15/2006	Athanassios Tzikas	4-22983/A/PC/T	1722
324	7590	05/11/2009		
JoAnn Villamizar Ciba Corporation/Patent Department 540 White Plains Road P.O. Box 2005 Tarrytown, NY 10591			EXAMINER KLEMANSKI, HELENE G	
			ART UNIT 1793	PAPER NUMBER
			NOTIFICATION DATE 05/11/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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deborah.pinori@ciba.com  
sonny.nkansa@basf.com

### Office Action Summary

**Application No.**

10/579,364

**Applicant(s)**

TZIKAS ET AL.

**Examiner**

Helene Klemanski

**Art Unit**

1793

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Claim 1 has been amended, claim 6 has been deleted and no new claims have been added. Hence, claims 1-5 and 7-11 are pending in the application.
2. The 102(b) rejection over WO 00/43455 as set forth in the previous Office Action dated September 10, 2008 has been overcome by applicant's amendments and is now withdrawn.
3. The 103(a) rejection over Schwarz (US 5,393,307) as set forth in the previous Office Action dated September 10, 2008 has been overcome by applicant's amendments and is now withdrawn.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

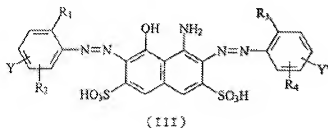
5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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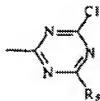
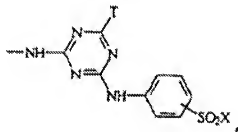
consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-5 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/43455.

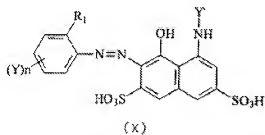
WO 00/43455 teaches a reactive dye composition comprising (1) a reactive dye of the formula (III)



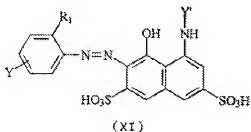
wherein Y and Y' each independently are  $-\text{SO}_2\text{X}$ ,  $-\text{NH}-\text{W}$  or



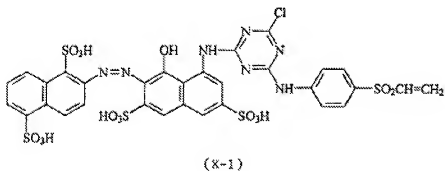
W is  $-\text{CH}=\text{CH}_2$ ,  $-\text{C}_2\text{H}_4\text{OSO}_3\text{H}$  or  $-\text{C}_2\text{H}_4\text{Cl}$ ; X is  $-\text{F}$  or  $-\text{Cl}$ ;  $\text{R}_5$  is  $-\text{Cl}$ ;  $\text{R}_1$ ,  $\text{R}_2$ ,  $\text{R}_3$  and  $\text{R}_4$ , each independently is H, halogen,  $\text{C}_{1-4}$  alkyl,  $\text{C}_{1-4}$  alkoxy or sulfonyl groups and at least one of  $\text{R}_1$ ,  $\text{R}_2$ ,  $\text{R}_3$  and  $\text{R}_4$  is other than H and (2) a reactive dye of the formula (X) or (XI)



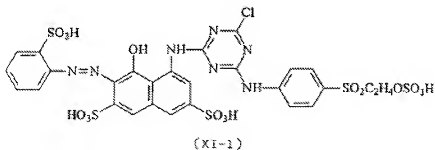
or



wherein Y, Y' and R<sub>1</sub> are defined above and n is 0, 1, 2, or 3. Specific examples of the dye of formula (III) are dyes of the formula (III-7), (III-8), (III-15), (III-16), (III-17) and (III-18); a specific example of the dye of the formula (X) is a dye of the formula (X-1)



and a specific example of the dye of the formula (XI) is a dye of the formula (XI-1)



WO 00/43455 further teaches a process for printing textiles that contain a hydroxyl group or an amide group such as cellulose or cotton comprising applying the above

reactive dye composition to the textile. See page 3, lines 5-17, page 4, line 22 - page 5, line 5, formula (III), page 6, lines 1-10, formulas (III-7), (III-8), (III-15), (III-16), (III-17) and (III-18), page 13, lines 10-11, formula (X), formula (XI), page 15, lines 9 and 10, formulas (X-1), (X-2) and (X-3), formula (XI-1), page 26, lines 9-15, examples 7, 8, 17 and 18, page 33, lines 4-9 and claims 1, 2, 12-14 and 16. WO 00/43455 fails to specifically exemplify a reactive dye composition comprising a combination of applicant's dye of formula (2a) (i.e. the dye of formula (III) in WO 00/43455) and applicants dye of formula (1) (i.e. the dyes of formula (x) or (XI) in WO 00/43455) as claimed by applicants.

Therefore, it would have been obvious to one having ordinary skill in the art to use the specific dye of formula (2a) as claimed by applicants as the dye of formula (III) in combination with the dye of formula (X) or (XI) in WO 00/43455 as WO 00/43455 also discloses the use of these reactive dyes of the formula (III) but fails to show an example incorporating them.

### ***Response to Arguments***

7. Applicant's arguments filed February 2, 2009 have been fully considered but they are not persuasive.

Applicants argue that the WO 00/43455 reference does not disclose applicants dye of formula (2a). The examiner disagrees since the WO 00/43455 reference does disclose applicants dye of formula (2a). See specifically the dyes of formulas (III-7), (III-8), (III-15), (III-16), (III-17) and (III-18). Moreover, the examiner did not indicate that the

WO 00/43455 reference did not disclose these dyes in the previous Office Action dated September 10, 2008 but merely stated that the WO 00/43455 reference did not specifically exemplify the use of the dyes of formulas (III-7), (III-8), (III-15), (III-16), (III-17) and (III-18) in combination with the dyes of formula (X) or (XI). See paragraph 6 of the previous Office Action.

Applicants further argue that dyes of formulas (III-7), (III-8), (III-15), (III-16), (III-17) and (III-18) of the WO 00/43455 reference are distinguished from applicants dyes of formula (2a) by more than two features. The examiner disagrees. The dye of formula (III-7) contains both a fiber reactive radical of the formula (3a) and (3f), the dye of formula (III-8) contains both a fiber reactive radical of the formula (3a) and (3f), the dye of formula (III-15) contains both a fiber reactive radical of the formula (3a) and (3f), the dye of formula (III-16) contains both a fiber reactive radical of the formula (3a) and (3f), the dye of formula (III-17) contains both a fiber reactive radical of the formula (3a) and (3f) and the dye of formula (III-18) contains both a fiber reactive radical of the formula (3a) and (3f) as claimed by applicants. It is unclear how these dyes differ from applicant's dye of formula (2a) since the response filed February 5, 2009 did not specify these differences. Accordingly, it is the examiner's position that applicant's dye of formula (2a) is encompassed by the dyes formulas (III-7), (III-8), (III-15), (III-16), (III-17) and (III-18) of the WO 00/43455 reference.

Applicant's lastly argue that the WO 00/43455 reference does not teach or suggest combining applicants dye of formula (2a) (i.e. pertaining to the dye of formula (III) in the WO 00/43455 reference) with applicant's dye of formula (1) (i.e. pertaining to



the dye of formula (X) or (XI) in the WO 00/43455 reference) as claimed by applicants. The examiner disagrees. The WO 00/43455 reference does suggest this combination of dyes since the dye of formula (III) is combined with a dye of the formula (X) or (XI) in examples 7, 8, 17 and 18. Therefore, it is the examiner's position that it would have been obvious to one having ordinary skill in the art to have combined the dye of formula (III) with the dye of formula (X) or (XI) as claimed by applicants as shown by the WO 00/43455 reference absent unexpected results. Accordingly, this action is final.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene Klemanski whose telephone number is (571) 272-1370. The examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Helene Klemanski/  
Primary Examiner, Art Unit 1793